

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

O&R CONSTRUCTION, LLC; DIE-
MENSION CORPORATION; VINOTEMP
INTERNATIONAL CORPORATION;
CPRINT, INC.; ALTAFLLO, LLC; and
FLOW SCIENCES INC., individually and
on behalf of all others similarly situated,

Plaintiff,

v.

DUN & BRADSTREET CREDIBILITY
CORPORATION; DUN & BRADSTREET
CORPORATION; and DUN &
BRADSTREET, INC.,

Defendants.

No. 2:12-cv-02184-TSZ

CLASS ACTION

**STIPULATED MOTION TO
VACATE OR DECERTIFY
SETTLEMENT CLASS**

NOTE ON MOTION CALENDAR:
DECEMBER 1, 2017

WHEREAS on April 2, 2017, plaintiffs submitted an Unopposed Motion and Memorandum in Support of Preliminary Approval of Second Amended Class Action Settlement (“Motion for Preliminary Approval”) [Dkt. # 238] requesting preliminary approval of the settlement established in the Second Amended Stipulation of Settlement;

WHEREAS pursuant to the Second Amended Stipulation of Settlement [Dkt. # 239-1], Defendants consented to certification of a settlement class “solely for the purposes” of settlement (*see* Second Amended Stipulation of Settlement § 3.1);

WHEREAS on May 5, 2017, the Court granted, in part, and deferred in part the Motion for Preliminary Approval [Dkt. # 241] (the May 5 Order”). Among other things, the May 5 Order (i) consolidated Case Nos. C12-2184, C14-855, C14-1021, C14-1288, and C14-1404 into Case

STIPULATED MOTION TO VACATE OR DECERTIFY
SETTLEMENT CLASS - 1
No. 2:12-cv-02184-TSZ

127173.0001/7144682.1

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1 No. C12-2184; (ii) certified a class for settlement purposes; (iii) appointed class representatives,
 2 class counsel and an escrow agent; (iv) appointed a settlement administrator; and (v) ordered the
 3 parties to submit supplemental briefing addressing certain issues raised in the Court's order;

4 WHEREAS on August 8, 2017, the parties executed a Third Amended Stipulation of
 5 Settlement [Dkt. # 251-1], which was submitted to the Court in support of Plaintiffs' and Class
 6 Counsel's Supplemental Brief Pursuant to the Court's May 5, 2017 Order [Dkt. # 250] filed that
 7 same day;

8 WHEREAS on October 13, 2017, the Court issued an order [Dkt. # 256] (the October 13
 9 Order") that, among other things, (i) denied without prejudice the deferred portion of the Motion
 10 for Preliminary Approval; (ii) stated that the "class defined in the [May 5 Order] will remain
 11 certified for settlement purposes pending further order; and (iii) set a deadline of December 12
 12 for the parties to submit a renewed motion for preliminary approval or a joint status report
 13 addressing certain issues described in the October 13 Order;

14 WHEREAS the parties are not able to reach agreement on an amended stipulation of
 15 settlement and have agreed to terminate the Third Amended Stipulation of Settlement;

16 WHEREAS the Second Amended Stipulation of Settlement and Third Amended
 17 Stipulation of Settlement provide that if the settlement does not become effective, then
 18 Defendants' consent to certifying a settlement class "shall automatically be rescinded and
 19 withdrawn as if it had never been given" and "the Actions shall proceed as though the Settlement
 20 Class had never been certified";

21 WHEREAS the parties have agreed to request that the Court (a) vacate those portions of
 22 the May 5 Order that (i) certified a class for settlement purposes; (ii) appointed Class
 23 Representatives, Class Counsel and an Escrow Agent; (iii) appointed a Settlement Administrator;
 24 and (iv) concluded that the Settlement Class satisfies the requirements of Federal Rule of Civil
 25 Procedure 23(a) and 23(b)(3) (*see* May 5 Order at pp. 10-11, paragraphs (2)-(5)); or, in the
 26 alternative, (b) decertify the Settlement Class and rescind the appointments of Class
 27 Representatives, Class Counsel, Escrow Agent and Settlement Administrator; and

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1 WHEREAS the parties are continuing to discuss next steps, including alternative forms
2 of resolution for this matter, and intend to provide further information to the Court as required
3 by the October 13 Order;

4 IT IS HEREBY STIPULATED AND AGREED, by and between counsel for all parties
5 in the above-captioned actions, as follows:

- 6 1. The Third Amended Stipulated Settlement Agreement is terminated.
- 7 2. The parties request that the Court (a) vacate those portions of the May 5 Order that
8 (i) certified a class for settlement purposes; (ii) appointed Class Representatives,
9 Class Counsel and an Escrow Agent; (iii) appointed a Settlement Administrator; and
10 (iv) concluded that the Settlement Class satisfies the requirements of Federal Rule of
11 Civil Procedure 23(a) and 23(b)(3) (*see* May 5 Order at pp. 10-11, at paragraphs (2)-
12 (5)); or, in the alternative, (b) decertify the Settlement Class and rescind the
13 appointments of Class Representatives, Class Counsel, Escrow Agent and Settlement.
- 14 3. Nothing herein shall effect the parties' obligation to submit, by December 12, 2017,
15 a joint case status statement containing the items required by the October 13 Order.

16 DATED: December 1, 2017

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SETTLEMENT CLASS - 4
No. 2:12-cv-02184-TSZ

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2017, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List below, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice List below:

A. Mailing Information for a Case 2:12-cv-02184-TSZ O&R Construction, LLC v. Dun & Bradstreet Credibility Corporation et al

1. Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

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STIPULATED MOTION TO VACATE OR DECERTIFY
SETTLEMENT CLASS - 5
No. 2:12-cv-02184-TSZ

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2. Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing).

- (No manual recipients)

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 1st day of December, 2017, at Seattle, Washington.

By: s/Richard F. Schwed

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